

MINUTES
Regular Meeting of the College Park City Council
Tuesday, May 10, 2011
8:00 p.m.

PRESENT: Mayor Fellows; Councilmembers Nagle, Wojahn, Catlin, Perry, Stullich (arrived at 8:09 p.m.), Cook, Afzali and Mitchell.

ABSENT: None.

ALSO PRESENT: Joe Nagro, City Manager; Suellen Ferguson, City Attorney; Yvette Allen, Assistant City Clerk; Steve Groh, Director of Finance; Leo Thomas, Deputy Director of Finance; Bob Ryan, Director of Public Services; Bob Stumpff, Director of Public Works; Terry Schum, Director of Planning; Jill Clements, Director of Human Resources; Peggy Higgins, Director of Youth, Family and Senior Services; Brian Burrell, Student Liaison.

Mayor Fellows opened the meeting at 8:00 p.m. and led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Perry and seconded by Councilmember Mitchell to approve the minutes of the April 26, 2011 Regular Meeting, the Public Hearing of April 26, 2011 on 11-O-03, and the Confidential minutes of the Executive Sessions held on April 5, 16, and 19, 2011. The motion passed 7-0-0.

Announcements:

Councilmember Nagle announced the North College Park Citizens Association meeting being held on Thursday, May 12th at 7:30 p.m. at Davis Hall.

Councilmember Wojahn requested that the CSX Rail Intermodal Facility be placed on a future agenda.

Councilmember Catlin announced the Lakeland Civic Association Meeting being held on May 12th at the College Park Community Center.

Councilmember Perry announced the Board and Committee Reception being held on Friday, May 13th at the University of Maryland Golf Course. He also announced the Berwyn Civic Association meeting to be held on May 19th at 8:00 p.m. at Fealy Hall.

Councilmember Cook announced that the Calvert Hills Civic Association will hold elections Thursday, May 12th at 7:30 p.m. at the Old Parish House. Mr. Cook also announced that this week is Woman's Health Week and urged all to get their annual check-up.

Councilmember Afzali announced the West College Park Neighborhood Watch Picnic to be held on Saturday, May 21st from 12 noon to 4:00 p.m. All are invited to attend.

Councilmember Mitchell asked staff if we received any information on Pepco Smart Meter. Mr. Nagro stated that he has spoken to Pepco and is in the process of setting up an appointment with them. Ms. Mitchell requested that LEED Certification for Neighborhoods be placed on a future Worksession.

[Councilmember Stullich arrived.]

Councilmember Stullich announced the Calvert Hills Civic Association will hold Elections on Thursday, May 12th at 7:30 p.m. at the Old Parish House. She also announced the Old Town Civic Association meeting to be held Tuesday, May 16th at 7:30 p.m. at the Old Parish House.

Amendments to the Agenda: None.

City Manager's Report: Mr. Nagro announced that the presentation of the draft Pattern Book for College Park Neighborhoods by Urban Designs Associates has been rescheduled to June 20th at 7:00 p.m. Mr. Nagro also announced the Board and Committee Reception will be held on Friday, May 13th at 7:00 p.m. at the University of Maryland Golf Course.

Student Liaison Comments: Brian Burrell stated that school is ending and graduations will begin. He also stated that the SGA has received one Student Liaison application and that two more people have stated that they're interested in the position.

Comments from the Audience on Non-Agenda Items:

Tom McGraw, Greenbelt resident and representing three businesses - Ollie's Trolley, Ledo's Restaurant and Cold Stone Creamery: Would like the City to consider a more enlightened view of parking and asked that they give the business a monthly report stating what the City is doing on behalf of the businesses.

Councilmember Perry asked Mr. McGraw if he was aware of the new parking meter structures and where they are going to be placed. Mr. McGraw is aware of the new pay stations; however, he would like to know if patrons were able to use their cell phones to add money to their parking time. Councilmember Perry stated that the pay stations have been purchased and it's like all new technology, once you purchase something, a newer and better model is made.

Jack Robson, 4710 Harvard Road: Commented that parking be extended on Thursday, Fridays and Saturdays until midnight as there are times he can't find parking in the shopping center at 10:00 p.m. Suggested that the business owners tell their patrons that they can park in the garage and pay for all day parking as a meter only allows for two hours.

Jane Hopkins, 9209 48th Avenue: Remembers when there were no metered lots, you could not find a parking space in the downtown area. Also stated that she could not see her mom adding additional time to her meter by paying on her cell phone. If you are at the hairdressers and it takes more than 2 hours, you could always ask someone to go out and add additional money to your meter.

Councilmember Stullich commented that if you need to park more than two hours at a time to use the parking garage where you could pay to park all day.

Action Items:

**11-G-47 A Motion To Express The City's Interest In Pursuing The AT&T Proposal
For A Telecommunications Monopole At The Odessa Outlots And
Authorization For The City Manager To Negotiate On The City's Behalf**

A motion was made by Councilmember Perry; however it failed for a lack of a second.

11-O-05 Adoption of 11-O-05, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 34, "Elections" Article III, "Fair Election Practices", §34-14, "Contributions And Expenditures; Prohibited Practices" To Prohibit Only Direct Contributions Or Expenditures By A Business Entity To A Candidate's Campaign, And §34-17 "Political Matter Published Or Distributed", To Clarify That Electronic Media, Telephone, And Other Forms Of Communication Are Political Matter Included Within The Requirements Of §34-17 And Amending Chapter 141, "Nuisances", §141-7, "Signs And Advertisements" To Place A Time Limit On Posting Of Political Signs In The Public Streets Or Thoroughfares And To Clarify That Permission Of The City Is Required For Placement Of Signs.

A motion was made by Councilmember Cook and seconded by Councilmember Nagle to adopt Ordinance 11-O-05.

Councilmember Cook emphasized that this Ordinance pertains to signs on public property, not private property.

Councilmember Afzali stated several people on Council may not agree with the entire ordinance especially "§34-14, "Contributions And Expenditures; Prohibited Practices" To Prohibit Only Direct Contributions Or Expenditures By A Business Entity To A Candidate's Campaign." This is a federal law and therefore must be incorporated within the city code.

Councilmember Wojahn made a motion to amend the ordinance to take out "and obtaining permission from" under Section 3 §141-7. Motion seconded by Councilmember Nagle.

Ms. Ferguson stated that signs placed in rights of way must be consistent with safety rules and regulations. This wording is not to limit free expression; however, the City needs to make sure that all rights of way are safe as not to block the view of drivers and pedestrians. This wording was added to advise people that you must have permission to install a sign; however, if a sign is causing a safety hazard, the city can remove the sign at any time.

Councilmember Wojahn expressed that a criteria needs to be made to determine the factors of denial or approval of a sign being placed in the city right of way.

Mayor Fellows suggested placing this item, to discuss establishing or developing criteria for political signs, on a near future Worksession.

All Councilmembers were in favor and therefore the amendment to the motion was withdrawn.

The Motion passed 8-0-0.

11-O-03 Adoption of An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 190 "Zoning", Article I "Revitalization Overlay District" By Renaming The Article And Repealing And Reenacting §190-1 "Purposes", §190-4 "Powers And Duties Of The City Advisory Planning Commission To Conduct Hearings", §190-10 "Departures From Design Standards", §190-11, "Exceptions To The Commission's Recommendation Regarding Departures" And §190-16 "Appeal";

Adding §190-11 “Certification, Revocation And Revision Of Nonconforming Uses”, §190-12, “Minor Changes To Approved Special Exceptions, In General”, §190-13, “Minor Changes, Commission”, §190-14, “Limited Minor Changes, Planning Director”, §190-15, “Specific Changes” And §190-16 “Alternative Compliance”; Repealing §190-2 “Boundary”; Renumbering §190-3, “Definitions”, §190-5 “Criteria For Granting Variances”, §190-6 “Procedure For Granting Variances; Filing; Fees; Public Hearing”, §190-7 “Exceptions To The Commission’s Recommendation Regarding Variances”, §190-8 “Validity Period Regarding Variances”, §190-9 “Refiling Variance Requests”,; And Article II, §190-13 “Signs”, And Amending Chapter 110 “Fees And Penalties” To Set Or Increase Fees.

A motion was made by Councilmember Wojahn and second by Councilmember Catlin to adopt Ordinance 11-O-03.

Councilmember Wojahn added that in 2005, the General Assembly authorized Prince George’s County to delegate additional zoning powers to the municipalities in up to five subject areas. In 2010, the County authorized delegation of authority in three of the areas:

1. alternative compliance from landscaping requirements,
2. certification, revocation and revision of nonconforming uses, and
3. minor changes to approved special exceptions.

Currently, the City exercises zoning power through the Advisory Planning Commission and the Council as to departures from:

1. design and landscaping standards,
2. parking and loading standards,
3. sign design standards, and
4. variances for lot size, setback and similar requirements.

Any municipality that seeks to exercise this additional authority must adopt an ordinance, which must be approved by the County sitting as the District Council. This ordinance was drafted for this purpose, and amendments have been added based upon comments from County staff and from residents. In response to resident requests, notice requirements have been increased, and residents can register to be notified of zoning activities.

Councilmember Afzali asked his colleagues to vote in favor of this motion, as it would be easier to come to the City and have the Advisory Planning Commission make a decision on a zoning issue rather than going to County.

Councilmember Nagle stated that while she is in favor of more local controls, her goal is to have the processes that we put into place in College Park make things easier and more beneficial for residents, not harder and more cumbersome. People here shouldn’t have a two-step process that is more difficult than what other residents in the County have to go through. She asked Council for their commitment to follow through on putting procedures in place that make it easier for the residents.

Councilmember Wojahn wanted to clarify that the reason there was additional public comment on this item at the last meeting was that there was an amendment to the ordinance. He believes this ordinance will allow for additional accountability and greater resident involvement in the zoning process. The city is much more transparent than the county and looks forward to working on a procedure to make this process beneficial to our residents.

Councilmember Stulich stated that this ordinance will streamline the process for our residents and will be much easier than going to the County. She also stated that there may be changes which residents may want to make that their neighbors may not agree on which may cause some issues. Overall, this ordinance will make it easier on our residents.

The motion passed 8-0-0

11-G-48 Approval of FY 2011 Community Services Grants

A motion was made by Councilmember Mitchell and seconded by Councilmember Nagle to award the following grants under the FY2011 Community Services Grant program:

- **Hollywood Elementary School: \$1,800 (of a \$2,100 request) towards funding for family instructional nights**
- **Paint Branch Elementary School: \$1,800 (of a \$1,950 request) towards funding for the Nankai University Elementary School educational summit in Tianjin, China**
- **The National Museum of Language, Inc.: \$1,900 (of a \$2,500 request) for exhibit improvement and development**
- **Lakeland Community Heritage Project: \$2,200 (of a \$2,500 request) towards funding for Lakeland Heritage Weekend**
- **American Legion Auxiliary, College Park Post 217: \$1,000 (of a \$2,500 request) for scholarships for Miss College Park pageant participants (to cover education expenses)**
- **Pregnancy Aid Centers, Inc.: \$2,300 (of a \$2,500 request) for its food pantry program**
- **Boy Scout Troop 298: \$1,000 (of a \$2,500 request) for leadership education for young men**
- **Cub Scout Pack 298: \$1,000 (of a \$2,500 request) to subsidize the cub scout program in North College Park**
- **College Park Woods Swim Club: \$1,000 (of a \$1,000 request) for a senior summer day camp**
- **Girl Scout Council of the Nation's Capital Service Unit 23-5: \$1,000 (of a \$2,000 request) for a community garden in North College Park**

In accepting the grant award, each organization will be required to execute a "hold harmless" agreement prepared by the City Attorney.

Councilmember Mitchell stated that these grants, in a maximum of \$2,500 per organization, are based on applications submitted by the deadline and reviewed by Mayor & Council at the May 3rd Worksession. The 12 applications received requested a total of \$25,750 and were reviewed by a Mayor & Council subcommittee which made an award recommendation to the full Council. Funding for these grants is provided in the FY2011 adopted operating budget, account 1010-2520, in the amount of \$15,000. Some of the grants have been reduced from the amount requested by each organization in order to have the total grant awards for FY2011 not exceed the \$15,000 budgeted funds.

Motion passed 7-1-0. Councilmember Perry opposed.

11-O-08 Adoption of Emergency Ordinance 11-O-08 to amend City Code Chapter 129, "Licenses", §129-6, "Mobile Vendors", and §129-7, "Prohibited Conduct", to Extend the Application of the Sections to Vendors Who Buy Goods or Services

A motion was made by Councilmember Afzali and second by Councilmember Mitchell to adopt Emergency Ordinance 11-O-08.

Councilmember Afzali stated that it came to the attention of the Mayor and Council that the current mobile vending and licensing laws apply to selling of goods, but not clearly to the buying of goods and services or the selling of services. In order to resolve this oversight, this emergency ordinance, which requires the vote of six members of the Council, has been drafted for approval.

Comments from the audience:

Larry Bleau, 4901 Niagara Road: Supports this ordinance and thanked Council for clarifying mobile vender for selling and buying products.

Marge Robling, Maryland Book Exchange and Vice President of the Downtown College Park Management Association: Supports this ordinance. We need to support all local business and should not have an outsider come in for a few days to take away from local businesses.

John Burdie, Book Holders, 4509 College Avenue: Stated that it is important to have competition in the area, but a mobile vendor is feeding off the convenience of being in a high traffic area of public space and not offering a good product. Supports this ordinance, however, he has a concern with the enforcement of this ordinance and feels that 10 days before issuing a citation would be too long.

Mark Srour, 7406 Baylor Avenue: Supports this ordinance.

Councilmember Afzali commented that we need to have a friendly reputation with the local business community. Downtown College Park Management Association made a unanimous vote to support this ordinance and we should support our local businesses. This ordinance will not only apply to the selling of goods, but also to the buying of goods and selling of services.

Councilmember Stulich supports this ordinance. Mobile book vendors give no resources to the community and no long-term service to the community. Books purchased would not stay in the community and would then be less available to the community.

Councilmember Wojahn supports this ordinance. Allowing any vendor to use our streets free is like giving away something free to someone who gives no resources to the city. Would like to look into this further to determine if a policy could be made to allow mobile vendors in College Park whereas a mobile vendor could be on the same playing field as other businesses by paying taxes, rent, etc. If this is done correctly (similar to the District of Columbia), we could potentially have a thriving downtown area.

Councilmember Nagle said this ordinance needs to be corrected at some point, but feels we are rushing the passing of it. She is not going to vote for the ordinance as she feels more thought needs to be put into this ordinance before passing it in an emergency fashion.

Councilmember Perry will not support this ordinance, as we should not go on record telling someone they can't do business in our city.

Councilmember Mitchell will be supporting this ordinance.

Councilmember Afzali stressed that this is the most important time of year for bookstores, as it is "Sell Back Book Week". He has received favorable resident feedback on this ordinance and not one person spoke against this ordinance.

Councilmember Stullich if we do not support this ordinance we are stating that we do not support our local business, our actions speak louder than words. The current ordinance does cover mobile vendors but the changes in the wording make the ordinance crystal clear.

Councilmember Cook said mobile vendors do have an impact our on local book stores and supporting this ordinance will not stifle competition but make sure it is applicable to all mobile vendors. Seller should be aware of who they are selling their products to as mobile vendors will not be here next week whereas the book store will.

Councilmember Perry stated that we never received negative or positive comments on the Comfort Zone locating within the City.

Roll Call Vote:

Aye: Mitchell, Afzali, Cook, Stullich, Catlin, Wojahn

Nay: Nagle, Perry

The motion passed 6-2-0.

11-CR-01 Adoption Of Charter Amendment Resolution 11-CR-01 To Amend Article II, “Boundaries and Districts”, §C2-2, “Districts” To Allow The Redistricting Commission To Use Objective Data To Adjust Census Counts For Purposes Of Redistricting

A motion was made by Councilmember Catlin and seconded by Councilmember Perry to override the requirements for pre-adoption publication and separate public hearing requirements of Paragraph II(Y) of the Rules and Procedures for the Mayor and Council of the City of College Park and to adopt Charter Resolution 11-CR-01, a Charter Amendment of the Mayor and Council of the City of College Park, Maryland, amending Article II, Boundaries and Districts, §C2-2, Districts, to authorize the City, in its discretion, to adjust the decennial census block count used for City redistricting purposes when that count, based on objective evidence, exceeds that actual population in a particular census block.

Councilmember Catlin commented that in reviewing the census data, the Redistricting Commission has noted that certain blocks contain a count that exceeds the actual population of the block, based upon objective evidence of bed counts from the University of Maryland. The Commission has requested that they be given discretion to adjust the counts based on this objective evidence. To insure that this change is effective on or before the date upon which redistricting must occur, the Council has determined that an override of its usual procedures with respect to pre-adoption publication and a separate public hearing is appropriate.

Councilmember Afzali will abstain from voting on this Charter Resolution as he feels uncomfortable in changing the Census numbers.

Councilmember Cook requested further explanation on objective data and who decides from the Redistricting Commission what is objective data.

Ms. Ferguson explained that the report from the Redistricting Commission explained that the Commission is relying on the bed count numbers in lieu of the numbers from the census. Usually the students are

undercounted and it was not expected that it would be the opposite. We are using the same objective criteria as we use for an undercount.

Councilmember Stulich said we are doing the same thing that we usually do when we have undercounts for overcounts.

Councilmember Wojahn said he would feel uncomfortable voting for this change if we didn't have objective evidence. We know how many beds there are, and since you can't have a higher count than the number of beds, the numbers can be corrected based on how many beds.

Councilmember Catlin said the Census has allowances for getting counts corrected but since our Election is approaching and the numbers are off about 200 people, the Census would not have enough time to do a recount.

The motion passed 7-0-1. Councilmember Afzali abstained.

11-G-49 Adoption of the City's Emergency Operations Plan

A motion was made by Councilmember Catlin and seconded by Councilmember Perry to authorize the City Manager to adopt the 2011 Revised Emergency Operations Plan in essentially the form presented to the Council during the Worksession on May 3, 2011.

Councilmember Catlin said the City has an Emergency Operations Plan which must be updated from time to time as needed. A draft update of the Emergency Operations Plan was discussed during the May 3, 2011 Council Worksession.

The City of College Park has limited emergency response responsibilities and resources and, except for specific emergency needs such as snow and debris removal from City streets, relies on County and State emergency resources for mitigation of most emergency incidents, such as from fires, vehicle crashes, transportation and hazmat incidents, tornadoes, etc. Nonetheless, City government is expected to be instrumental in the planning and implementation of emergency preparedness, response, mitigation, recovery, and assistance to residents to the best of our abilities. The City first prepared an Emergency Management Plan in preparation for Y2K contingencies. The plan has been revised and updated several times as needed. The plan has been updated again in 2011 as the Emergency Operations Plan, and has been reviewed and discussed by the Council.

The 2011 edition of the Emergency Operations Plan (EOP) was developed by staff with the assistance of a work study intern from the UMUC Emergency Management program. The draft was then reviewed by the UM (Baltimore) Center for Health and Homeland Security staff consultant for MEMA assigned to assist Montgomery and Prince George's Counties and County municipalities. Our EOP is intended to work in coordination with the County and University EOPs. County and University emergency managers were asked to review and comment on our draft plan. Our EOP is designed as a governmental operations guide for all kinds of emergencies. It is adaptable to changing conditions during an emergency by using the National Incident Management System and Incident Command System concepts, such as Joint Emergency Operations Centers. The EOP includes an extensive list of appendices which are available to staff as reference materials at locations where the EOP is maintained. Our existing and draft EOP are designed for continuity of government operations and as an internal document.

Other publications and communication are designed for public awareness and emergency preparation, e.g., City emergency preparedness information and links found on the City internet home page at www.collegeparkmd.gov, “Emergency Preparedness” menu item.

Adoption of the 2011 edition of the EOP is a first step in updating and revitalizing City emergency preparedness. Some City emergency resources are being revitalized, such as our Neighborhood Watch and Citizen Corps Council, which the City Council established to provide volunteer leadership for City resident’s personal, family and neighborhood emergency preparedness.

Councilmember Mitchell thanked staff for putting this together and hoped that this will be reviewed annually.

Councilmember Wojahn thanked staff and we need to keep in mind the people with disabilities during times of crises.

Councilmember Stullich thanked staff and hopes that we never need to use this plan.

The motion passed 8-0-0.

11-G-50 Approval Of A Letter To The Prince George’s County Historic Preservation Commission Supporting The Designation Of Old Town College Park As A National Register Historic District

A motion was made by Councilmember Stullich and seconded by Councilmember Cook to send a letter to the Prince George’s County Historic Preservation Commission supporting the nomination of Old Town College Park to the National Register of Historic Places.

Councilmember Stullich said if this letter is approved, County staff will bring this item up at the next Historic Preservation Commission (HPC) meeting. If approved by HPC they will forward their recommendations to the County Executive and if County approves it, it will go to the Maryland Historical Trust. There is a notification process that will be followed.

The motion passed 8-0-0.

11-G-51 Approval Of An Addendum To Collective Bargaining Agreement With AFSCME Local 1209

A motion was made by Councilmember Catlin and seconded by Councilmember Perry that the Mayor and Council approve the Letter Addendum to the Agreement between the Mayor and Council of the City of College Park and the American Federation of State, County and Municipal Employees Local 1209, AFL-CIO and authorize the City Manager to sign the Letter Addendum to the agreement.

Councilmember Catlin said the Letter Addendum to the Agreement makes two changes to the current Agreement.

1. There will be a Cost of Living Adjustment (COLA) of 1.5% for the period July 1, 2011 through June 30, 2012. Bargaining unit employees may be eligible for a merit step increase during FY 2012 according to the guidelines of the City's Pay Plan.
2. The parties shall meet in February, 2012 to reopen discussions concerning Article XX—Wage Rates, with an effective date of July 1, 2012 for any agreed increases.

The City Manager met with representatives of the Union in March and April, 2011 and they have agreed to the terms of the Letter Addendum described above. There will be no other changes to the contract.

Councilmember Catlin also added that in past practices this will apply to all employees which is included in the budget.

The motion passed 8-0-0.

Council Comments:

Councilmember Nagle requested that the CSX Rail Intermodal Facility be placed on next week's Worksession agenda and discussion of the FY2013 Budget process be placed on the July Worksession Agenda.

Councilmember Wojahn requested that Discussion of a Partnership with the Chesapeake Conservancy be placed on a future Worksession.

Councilmember Mitchell requested a future Worksession for parking permits for an oversized vehicle on Acredale Court.

Comments from the Audience:

Larry Bleau, 4901 Niagara Road: Mobile Vendors should be allowed to apply for a license and fees should only be charged for what it cost the City. Regarding the budget, he doesn't feel that you should make a reduction in staff snacks.

Adjournment: A motion was made by Councilmember Perry and seconded by Councilmember Nagle to adjourn. Mayor Fellows adjourned the meeting at 9:46 p.m. with a vote of 8 – 0 – 0.

Yvette T. Allen
Assistant City Clerk

Date
Approved

Pursuant to §C6-3 of the College Park City Charter, at 7:34 p.m. on Tuesday, May 3, 2011 in the Council Chambers at City Hall, a motion was made by Councilmember Afzali and seconded by Councilmember Perry to enter into an Executive Session for the following reason:

G: To Consult with Counsel on a Legal Matter

The motion passed 6 –0 – 0 (Stullich and Cook absent) and the Executive Session convened at 7:30 p.m.

Present: Mayor Fellows, Councilmembers Nagle, Wojahn, Catlin, Perry, Stullich (arrived at 7:34 p.m.), Afzali and Mitchell.

Absent: Councilmember Cook.

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Chantal Cotton, Assistant to the City Manager; Terry Schum, Director of Planning; Elisa Vitale, Senior Planner; Steve Groh, Director of Finance.

Topics Discussed:

- 1) For this item, also present was Chris Dullnig, member of the Redistricting Commission: The City Attorney advised the Council about an issue raised by the Redistricting Commission about possible census population overcounts, and discussed a strategy to address the issue.
- 2) The City Attorney advised Council about the steps needed to put referendum questions on a ballot if a petition drive is successful.

Action Taken: None

Adjourn: A motion was made by Councilmember Perry and seconded by Councilmember Afzali to adjourn the Executive Session. Mayor Fellows adjourned the Executive Session at 8:04 p.m. with a vote of 7 – 0 – 0.